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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3356/2018**

BIRMATI MEMORIAL COLLEGE OF EDUCATION..... Petitioner
Through: Mr.Sanjay Sharawat with Mr.Divyank
Rana, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR
..... Respondents
Through: Ms.Arunima Dwivedi & Ms.Preeti
Kumra, Advs. for R-1 & 2.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% **06.04.2018**

Vide the present petition, the petitioner-institute impugns order dated 05.12.2016 passed by respondent No.2 whereby the petitioner's application has been rejected on the ground that despite receipt of show cause notice dated 27.09.2016, the petitioner had not responded and, therefore, the respondent No.2 was constrained to reject the petitioner's application.

Learned counsel for the petitioner submits that the petitioner never received the said show cause notice and contends that there was no reason as to why the petitioner would not have responded to the said notice, in case, the same had been received by the petitioner-institute. Learned counsel for the petitioner also draws my attention

to order dated 08.08.2016 passed by the Appellate Committee i.e. respondent No.1 whereby a specific direction was issued to respondent No.2 and all other regional committees to ensure that they must substantiate the delivery of the show-cause notice to the institutes by obtaining and placing on file a copy of the tracking report concerning the speed post letter issued by the Regional Office. Learned counsel for the petitioner submits that the said course of action has not been followed by the respondents while passing the impugned order.

On the other hand, Ms.Arunima Dwivedi, Advocate, who appears on advance notice for the respondents submits that the said documents to show delivery of show cause notice to the petitioner need not have formed part of the refusal order and would necessarily be available in the records of the respondents. She further submits that since the petitioner has not availed the statutory remedy of preferring an appeal to respondent No.1, the present petition is not maintainable.

At this stage, learned counsel for the petitioner submits that since he has not availed the appellate remedy, he may be granted leave to approach the respondent No.1 within 10 days. He however, prays that the respondent No.1 may be directed to decide the appeal in an expeditious manner and also prays that in case it is found that in case, the show cause notice dated 27.09.2016 was actually not served on the petitioner, the respondents should instead of remanding the matter back to respondent No.2, grant him an opportunity to respond to the show-cause notice.

The petition is accordingly disposed of with liberty to the petitioner to file an appeal to respondent No.1 impugning order dated 05.12.2016 passed by respondent No.2 within 10 days. In case, such an appeal is filed by the petitioner within 10 days, respondent No.1 will decide the same by passing a reasoned order within six weeks. It is made clear that the petitioner's appeal would be considered on merits and would not be rejected on the ground of limitation.

Needless to say in case the petitioner is aggrieved, it will be entitled to take legal recourse as per law.

The petition is disposed of with the above directions.

REKHA PALLI, J

APRIL 06, 2018/gm